

House File 743 - Introduced

HOUSE FILE 743
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 226)

A BILL FOR

1 An Act requiring that the general assembly provide for the
2 publication of certain material and associated electronic
3 records pertaining to official legal publications.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

PRINCIPAL PROVISIONS

Section 1. NEW SECTION. 2B.31 Short title.

This subchapter may be cited as the "*Uniform Electronic Legal Material Act*".

Sec. 2. NEW SECTION. 2B.32 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. "*Electronic*" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

2. "*Legal material*" means an edition, including any part of that edition of the following legal publications as cited in section 2B.17, whether or not in effect:

a. The Constitution of the State of Iowa.

b. The Iowa Acts.

c. The Iowa Code.

d. The Iowa Administrative Bulletin.

e. The Iowa Administrative Code.

3. "*Publish*" means to display, present, or release to the public, or cause to be displayed, presented, or released to the public by the legislative services agency.

4. "*Record*" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, including printed and electronic versions of legal publications.

5. "*State*" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Sec. 3. NEW SECTION. 2B.33 Applicability.

1. This subchapter applies to all legal material in an electronic record that is designated as official under the applicable provisions of section 2.42, chapter 2A, and this chapter and which is first published electronically on or after

1 the implementation date of this Act.

2 2. This subchapter applies to electronic records that are
3 publicly available by accessing the general assembly's internet
4 site.

5 Sec. 4. NEW SECTION. 2B.34 Legal material in official
6 electronic record.

7 1. If the legislative services agency publishes legal
8 material only in an electronic record, the legislative services
9 agency shall do all of the following:

10 a. Designate the electronic record as official.

11 b. Comply with the applicable provisions of section 2.42,
12 chapter 2A, and this chapter.

13 2. If the legislative services agency publishes legal
14 material in an electronic record and also publishes the legal
15 material in a record other than an electronic record, the
16 legislative services agency may designate the electronic
17 record as official if the electronic record complies with the
18 applicable provisions of section 2.42, chapter 2A, and this
19 chapter.

20 3. Except as provided in subsection 1, the legislative
21 services agency may designate an electronic record as
22 unofficial.

23 Sec. 5. NEW SECTION. 2B.35 Authentication of official
24 electronic record.

25 1. The legislative services agency in publishing legal
26 material in an electronic record that is designated as official
27 under the applicable provisions of section 2.42, chapter 2A,
28 and this chapter shall authenticate the electronic record. To
29 authenticate an electronic record, the legislative services
30 agency shall provide a method for a user to determine that
31 the record received by the user from the legislative services
32 agency is unaltered from the official record published by the
33 legislative services agency.

34 2. Subsection 1 does not affect any other process to
35 authenticate legal material under section 2B.18 or any other

1 authentication process adopted by the legislative council or
2 the legislative services agency.

3 Sec. 6. NEW SECTION. **2B.36 Effect of authentication.**

4 1. Legal material in an electronic record that is
5 authenticated under section 2B.35 is presumed to be an accurate
6 copy of the legal material.

7 2. If another state has adopted a law substantially similar
8 to this subchapter, legal material in an electronic record that
9 is designated as official and authenticated by the official
10 publisher in that state is presumed to be an accurate copy of
11 the legal material.

12 3. A party contesting the authentication of legal material
13 in an electronic record authenticated under section 2B.35 has
14 the burden of proving by a preponderance of the evidence that
15 the electronic record is not authentic.

16 Sec. 7. NEW SECTION. **2B.37 Preservation and security of
17 legal material in official electronic record.**

18 1. The legislative services agency in maintaining custodial
19 information as provided in subchapter I and that is or was
20 designated as official under the applicable provisions of
21 section 2.42, chapter 2A, and this chapter shall provide for
22 the preservation and security of the record in an electronic
23 form or a form that is not electronic.

24 2. If legal material is preserved under subsection 1 in an
25 electronic record, the legislative services agency shall do all
26 of the following:

27 a. Ensure the integrity of the record.

28 b. Provide for backup and disaster recovery of the record.

29 c. Ensure the continuing usability of the legal material.

30 Sec. 8. NEW SECTION. **2B.38 Public access to legal material
31 in official electronic record.**

32 The legislative services agency, in preserving legal
33 material in an electronic record as required under section
34 2B.37, shall ensure that the legal material is reasonably
35 available for use by the public on a permanent basis.

1 Sec. 9. NEW SECTION. **2B.39 Standards.**

2 1. In implementing this subchapter, the legislative
3 services agency may consider any of the following:

4 *a.* The most recent standards regarding authentication of,
5 preservation and security of, and public access to, legal
6 material in an electronic record and other electronic records,
7 as promulgated by national standard-setting bodies.

8 *b.* The needs of users of legal material in an electronic
9 record.

10 *c.* The views of governmental officials and entities and
11 other interested persons.

12 *d.* To the extent practicable, methods and technologies for
13 the authentication of, preservation and security of, and public
14 access to, legal material which are compatible with the methods
15 and technologies used by other official publishers in other
16 states that have adopted a law substantially similar to this
17 Act.

18 2. The provisions of this subchapter shall be implemented
19 when the legislative council approves a plan presented by
20 the legislative services agency. The plan shall provide
21 for the implementation of this subchapter in a manner that
22 best benefits users of the general assembly's internet site
23 on a reliable, long-term, and cost-effective basis, and
24 which may include a budget estimate necessary to complete
25 implementation. The legislative services agency may request
26 the legislative council to approve a policy for the use of an
27 account in which receipts from the revenue from distributions
28 of publications credited to the account may be expended by
29 the legislative services agency on a multiyear revolving
30 basis, so long as such revenue is used exclusively to pay for
31 costs associated with implementing the provisions of this
32 subchapter as well as ordinary expenditures associated with
33 producing and distributing printed and electronic versions
34 of publications including as provided in section 2.43,
35 chapter 2A, and this chapter. However, if the legislative

1 services agency determines that it may fully implement this
2 subchapter without preparing a detailed plan for approval by
3 the legislative council, it shall prepare and submit a report
4 to the legislative council describing the implementation.

5 3. This section shall be implemented on the effective date
6 of this Act.

7 Sec. 10. NEW SECTION. **2B.40 Relation to electronic**
8 **signatures in global and national commerce Act.**

9 This subchapter modifies, limits, or supersedes the federal
10 Electronic Signatures in Global and National Commerce Act, 15
11 U.S.C. §7001 et seq., but does not modify, limit, or supersede
12 section 101(c) of that Act, 15 U.S.C. §7001(c), or authorize
13 electronic delivery of any of the notices described in section
14 103(b) of that Act, 15 U.S.C. §7003(b).

15 DIVISION II

16 CORRESPONDING AND MISCELLANEOUS AMENDMENTS

17 Sec. 11. Section 2B.5, Code 2019, is amended to read as
18 follows:

19 **2B.5 Duties of administrative code editor.**

20 The administrative code editor shall do all of the
21 following:

22 1. ~~Publish~~ Supervise the publication of the Iowa
23 administrative bulletin and the Iowa administrative code as
24 provided in section 2B.5A.

25 ~~2. Publish the Iowa court rules as provided in section~~
26 ~~2B.5B.~~

27 ~~3.~~ 2. Notify the administrative rules coordinator if a rule
28 is not in proper style or form.

29 ~~4.~~ 3. Perform other duties as directed by the director of
30 the legislative services agency, the legislative council, or
31 the administrative rules review committee and as provided by
32 law.

33 Sec. 12. Section 2B.5B, subsection 2, Code 2019, is amended
34 to read as follows:

35 2. The ~~administrative code editor~~ legislative services

1 agency, upon direction by the Iowa supreme court and in
 2 accordance with the policies of the legislative council
 3 pursuant to section 2.42 ~~and the legislative services agency~~
 4 ~~pursuant to section 2A.1~~, shall prescribe a uniform style and
 5 form required for filing a document for publication in the
 6 Iowa court rules. The document shall correlate each rule to
 7 the uniform numbering system. The ~~administrative code editor~~
 8 legislative services agency shall provide for the publication
 9 of an electronic version of the Iowa court rules. The
 10 ~~administrative code editor~~ legislative services agency shall
 11 review all submitted documents for style and form and notify
 12 the Iowa supreme court if a rulemaking document is not in
 13 proper style or form, and may return or revise a document which
 14 is not in proper style and form.

15 Sec. 13. Section 2B.5B, subsection 3, paragraph a, Code
 16 2019, is amended to read as follows:

17 a. The ~~administrative code editor~~ legislative services
 18 agency shall publish the Iowa court rules in accordance with
 19 section 2.42. However, the legislative services agency may
 20 publish supplements in lieu of the Iowa court rules. The
 21 ~~administrative code editor~~ legislative services agency shall
 22 provide for arrangement of the Iowa court rules in consultation
 23 with the Iowa supreme court.

24 Sec. 14. Section 2B.13, subsection 7, Code 2019, is amended
 25 by striking the subsection.

26 Sec. 15. Section 2B.17, subsection 2, paragraph a, Code
 27 2019, is amended to read as follows:

28 a. The codified ~~version of the~~ state's constitution shall be
 29 known as the Constitution of the State of Iowa.

30 Sec. 16. NEW SECTION. 2B.17A Official legal publications —
 31 publication dates.

32 1. An edition of a legal publication is deemed an
 33 official version and becomes effective on its publication
 34 date. A publication date is the date that an edition of a
 35 legal publication is conclusively presumed to be complete,

1 incorporating all revisions or editorial changes. Nothing
2 in this section affects an effective date of a codified or
3 uncodified provision of law, including but not limited to as
4 provided in Article III, section 26, of the Constitution of the
5 State of Iowa, or section 3.7.

6 2. If not otherwise established by statute or a policy
7 of the legislative council pursuant to section 2.42, the
8 legislative services agency shall establish a publication
9 date for each edition of a print or electronic version of an
10 official legal publication as cited in section 2B.17. The
11 publication date may be based on the date that the edition of
12 an official legal publication is first made available to the
13 public accessing the general assembly's internet site. The
14 publication date may also be the first date that an edition of
15 a print version of an official legal publication is first made
16 available for public distribution. If the legislative services
17 agency does not provide a publication date for the Iowa Code,
18 the publication date shall be the first day of the next regular
19 session of the general assembly convened pursuant to Article
20 III, section 2, of the Constitution of the State of Iowa.
21 Otherwise, the legislative services agency shall provide public
22 notice of a publication date for each edition of an official
23 legal publication on the general assembly's internet site.

24 3. A legal publication designated by the legislative
25 services agency as unofficial shall not be used to establish
26 a publication date for an official version of a legal
27 publication.

28 Sec. 17. Section 2B.18, subsection 2, Code 2019, is amended
29 to read as follows:

30 2. The administrative code editor is the custodian of the
31 official legal publications known as the Iowa administrative
32 bulletin, and the Iowa administrative code, ~~and the Iowa court~~
33 ~~rules~~. The administrative code editor may attest to and
34 authenticate any portion of such official legal publication
35 for purposes of admitting a portion of the official legal

1 publication in any court or office of any state, territory, or
2 possession of the United States or in a foreign jurisdiction.

3 Sec. 18. Section 2B.18, Code 2019, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 3. The legislative services agency, upon
6 direction by the Iowa supreme court and in accordance with
7 the policies of the legislative council pursuant to section
8 2.42 and the legislative services agency pursuant to section
9 2A.1, shall provide a process to attest to and authenticate any
10 portion of Iowa court rules.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill is based on the uniform electronic legal
15 material Act (UELMA), prepared by the national conference of
16 commissioners of uniform state laws in 2011. The prefatory
17 note stresses the need for flexible approaches by adopting
18 jurisdictions, observing that the UELMA "does not require
19 specific technologies, leaving the choice of technology for
20 authentication and preservation up to the states".

21 Specifically, the bill amends Code chapter 2B that provides
22 for the publication of official and unofficial editions of
23 legal publications, including the Iowa Constitution, the Iowa
24 Acts, the Iowa Code, the Iowa Administrative Bulletin, and the
25 Iowa Administrative Code. The bill requires the legislative
26 services agency when acting as custodian of information in a
27 secure electronic repository, provide for the publication of
28 legal material associated with those publications to enable
29 user access on a permanent and secure basis, including by
30 providing methods of authentication and preservation of
31 electronic records. The bill provides for the implementation
32 of its provisions according to a plan or report to be submitted
33 to the legislative council which will include such methods.
34 The bill makes a number of other conforming and miscellaneous
35 changes to the same Code chapter to implement the UELMA and

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1 also to codify current publication practice.